

**REMARKS:**

This is a full and complete response to the Office Action of April 9, 2008.

**REGARDING THE CLAIMS:**

Claims 11-14 and 17-30 are pending in the application. No amendments are made with this reply. No new matter has been added.

**IN RESPONSE TO THE OFFICE ACTION:**

**REJECTION UNDER 35 U.S.C. § 103:**

Claims 11-14 and 17-30 stand rejected under 35 USC §103(a) as being unpatentable over **Victor et al.**, US 6,127,094, (“**Victor**”). Applicants respectfully traverse this rejection.

In the most recent Office Action, the Examiner acknowledged that Applicants claims recite “consisting essentially of language.” The Examiner argues that although Applicants have amended claims 11 and 24, the claims do not only comprise a thermoplastic block copolymer and polymerization initiator. The Examiner indicated that the composition according to the claims also comprises one or more auxiliary components, wherein the auxiliary components may comprise a group of plasticizers, aromatic resin, and block copolymers. The Examiner then concluded that it cannot be understood how block co-polymers or aromatic resins can be seen as auxiliary and therefore **Victor** meets the limitations of claims 11 and 24.

Applicants respectfully disagree with the Examiner’s reasoning and conclusions. Applicants respectfully assert the composition of **Victor** requires components in amounts that would materially affect the basic and novel characteristics of the presently claimed invention and therefore is outside of the scope of the present claims.

Applicants respectfully note that the present claims do indeed recite “consisting essentially of” as a transitional phrase. Applicants respectfully note that in MPEP §2111.03, the transitional phrase consisting essentially of “limits the scope of a claim to the specified materials or steps ‘and those that do not materially affect the basic and novel characteristics of the claimed invention.’” Therefore the scope of the present claims is limited to those “materials” recited in elements (a) through (d) of the present claims and those that do not materially affect the basic and novel characteristics of the invention.

Applicants respectfully note that for element (d), it is recited that the claimed composition can optionally include “from 0 to 40% by weight...one or more auxiliaries.” Such auxiliaries are specifically identified:

“auxiliaries are selected from the group consisting of auxiliaries are selected from a group consisting of plasticizers, aromatic resin, fillers, dyes and/or pigments, antioxidants, antiozonants, thermal polymerization inhibitors and liquid poly(isoprene), liquid poly(butadiene) and/or liquid S-B or S-I diblock copolymers, and mixtures thereof.

In the Office Action the Examiner indicated that the claimed “auxiliaries” include “block co-polymers.” However, Applicants respectfully note that in fact diblocks are recited in element (d) and not merely “block copolymers.” In particular, Element (d) of the claims recites “liquid S-B or S-I diblock copolymers.” One of ordinary skill in the art could easily consider such diblock copolymers as auxiliaries as they are indicated as such in the application on page 10, paragraph [0045]. Furthermore, plasticizers and aromatic resins are also listed as auxiliaries in the Application on page 10, paragraph [0045].

Moreover, Applicants respectfully assert that the statement in the Office Action that it “cannot be understood how block co-polymers or aromatic resins can be seen as auxiliary” is completely superfluous. The claim recites elements (a) through (d). A composition having additional components outside of these claimed elements are also outside the scope of the claims only if they materially affect the basic and novel characteristics of the invention.

The composition disclosed by **Victor** is comprised of (col.3, line 43 to col. 4, line 13):

(A) in the range of about 25 up to about 80 wt% of at least one copolymer consisting essentially of in the range of:

- (i) about 25 up to about 95 mol % of at least one elastomer forming monomer,
- (ii) about 0.5 up to about 30 mol % of at least one  $\alpha,\beta$ -ethylenically saturated carboxylic acid, and
- (iii) about 0.1 up to about 50 mol % of at least one polyfunctional vinyl monomer;

Therefore, **Victor** discloses that its composition requires specified amounts of “elastomer forming monomer” (acrylates, methacrylates and the like), at least one  $\alpha,\beta$ -ethylenically saturated carboxylic acid, and at least one polyfunctional vinyl monomer. *See Victor, col.3, line*

43 to col. 4, line 13; Victor, Col. 4, lines 36-44. Victor's composition requires these components, and furthermore requires these components in the concentrations that would materially affect the basic and novel characteristics of the invention. Therefore, even if Victor did include thermoplastic elastomers as suggested by the Examiner, Victor is outside of the present claims. Therefore, no prima facie case of obviousness can be established and the above mentioned rejection should be withdrawn.

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The undersigned representative authorizes the Commissioner to charge any additional fees under 37 C.F.R. 1.16 or 1.17 that may be required, or credit any overpayment, to Deposit Account No. 14-1437, referencing Attorney Docket No.: 8132.003.PCUS00.

In order to facilitate the resolution of any issues or questions presented by this paper, the Examiner may directly contact the undersigned by phone to further the discussion.

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